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PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on 19th December, 2014:—

BILL NO. 191 OF 2014

A Bill further to amend the Electricity Act, 2003.

Be it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Electricity (Amendment) Act, 2014.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

36 of 2003.

2. In section 2 of the Electricity Act, 2003 (hereinafter referred to as the principal Act)—

Amendment
of section 2.

(i) after clause (1), the following clause shall be inserted, namely:—

‘(1A) “ancillary services”, in relation to power system or grid operation, means the services necessary to support the power system or grid operation for maintaining power quality, reliability and security of the grid;’;

(ii) after clause (2), the following clause shall be inserted, namely:—

‘(2A) “area of distribution” means the area within which a distribution licensee is authorised by his licence to distribute electricity;’;

(iii) in clause (3), for the words “distribution licensee”, the words “supply licensee” shall be substituted;

(iv) in clause (8), after the words “or association” occurring at the end, the words “in terms and conditions as may be prescribed by the Central Government from time to time” shall be inserted;

(v) in clause (12), after the words and brackets “useful energy (including electricity)” occurring at the end, the words “as specified by the Authority” shall be inserted;

(vi) after clause (15), the following clause shall be inserted, namely:—

‘(15A) “decentralised distributed generation” means electricity generation from wind, small hydro, solar, biomass, biogas, bio-fuel, generation from any kind of waste including municipal and solid waste, geothermal, hybrid power system or such other sources as may be notified by the Central Government for end-use at or near the place of generation;’;

(vii) for clause (16), the following clause shall be substituted, namely:—

‘(16) “dedicated transmission lines” means any radial electric supply-line for point to point transmission which is required for the purpose of connecting a captive generating plant or generating station to any transmission line or sub-station or switching station or generating station, or the load centre, as the case may be, subject to the condition that such line shall not form a loop with the grid and shall not be shared except with the prior approval of the Appropriate Commission;’;

(viii) in clause (17), for the words “for supplying electricity to the consumers in his area of supply”, the words “to enable supply of electricity to the consumers in his area of distribution” shall be substituted;

(ix) after clause (17), the following clause shall be inserted, namely:—

‘(17A) “distribution” means the conveyance of electricity by use of distribution system;’;

(x) in clause (23), in sub-clause (a), for the word “supplied”, the words “distributed, supplied” shall be substituted;

(xi) after clause (23), the following clause shall be inserted, namely:—

‘(23A) “Electricity Distribution Code” means the Electricity Distribution Code specified in section 50;’;

(xii) in clause (24), for the figures “50” occurring at the end, the figures and letter “51G” shall be substituted;

(xiii) in clause (25), after sub-clause (b), the following sub-clause shall be inserted, namely:—

“(ba) distribution system; or”;

(xiv) in clause (31), for the words and figures “section 617 of the Companies Act, 1956”, the words, brackets and figures “sub-section (45) of section 2 of the Companies Act, 2013” shall be substituted;

(xv) in clause (35), for the words “high voltage line”, the words “high voltage line or high pressure cables” shall be substituted;

(xvi) after clause (35), the following clauses shall be inserted, namely:—

‘(35A) “incumbent supply licensee” means the entity to which the supply functions and undertakings, other than those vested in the intermediary company, is vested under sub-section (4A) of section 131;

(35B) “intermediary company” means the entity succeeding to the existing power purchase agreements and procurement arrangements of the relevant distribution licensees on reorganisation as per sub-section (4A) of section 131;’;

(xvii) for clause (41), the following clause shall be substituted, namely:—

‘(41) “local authority” means any urban local body or rural local body or body of port commissioners or other authority entrusted by the Union or any State Government with the control or management of any area or local fund;’;

(xviii) after clause (46), the following clause shall be inserted, namely:—

‘(46A) “obligated entity” means the distribution licensee or the consumer owning the captive power plant or the open access consumer, as the case may be, which is mandated under section 86 of the Act in order to procure electricity from or any market instrument representing the renewable energy sources;’;

(xix) after clause (57), the following clause shall be inserted, namely:—

‘(57A) “renewable energy sources” for the purposes of this Act, means the small hydro, wind, solar, bio-mass, bio-fuel, bio-gas, co-generation from these sources, waste including municipal and solid waste, geothermal, tidal, forms of oceanic energy and such other sources as may be notified by the Central Government from time to time.

Explanation.—For the purposes of this clause, the expression “small hydro” means hydro generating stations of capacity not exceeding the capacity notified by the Central Government for this purpose;

(57B) “Renewable Energy Service Company” means an energy service company which provides renewable energy to the consumers in the form of electricity for the purposes of this Act;’;

(xx) after clause (61), the following clause shall be inserted, namely:—

‘(61A) “Smart Grid” means an electricity network that uses information and communication technology together information and act intelligently in automated fashion to improve the efficiency, reliability, economics, and sustainability of generation, transmission and distribution of electricity and such other information as may be specified by the Authority;’;

(xxi) after clause (70), the following clauses shall be inserted, namely:—

‘(70A) “supply licensee” means a person authorised under section 14 to supply electricity to consumers and shall include, incumbent supply licensee;

(70B) “provider of last resort” means the supply licensee who, from time to time, is designated so by the Appropriate Commission;’;

(xxii) in clause (71), the following proviso shall be inserted, namely:—

“Provided that sharing and use of power system for telecommunication shall not be construed as trading for the purpose of this Act;”;

(xxiii) in clause (72), after the words “from a generating station”, the words “or a sub-station” shall be inserted.

3. For section 3 of the principal Act, the following section shall be substituted, namely:—

“3. (1) The Central Government shall, from time to time, prepare, review and notify the National Electricity Policy, Tariff Policy and National Renewable Energy Policy, in consultation with the State Governments and the Authority for development

Substitution of new section for section 3.

National Electricity Policy and plan.

of the power system based on optimal utilisation of resources such as coal, natural gas, nuclear substances or materials, hydro and renewable sources of energy and for separation of distribution and supply functions and measures to promote Smart Grid, ancillary services and decentralised distributed generation, etc.

(2) The Authority shall prepare a National Electricity Plan in accordance with the National Electricity Policy and notify such plan once in five years:

Provided that the Authority while preparing the National Electricity Plan shall publish the draft National Electricity Plan and invite suggestions and objections thereon from licensees, generating companies and the public within such time as may be prescribed:

Provided further that the Authority shall—

(a) notify the plan after obtaining the approval of the Central Government;

(b) revise the plan incorporating therein the directions, if any, given by the Central Government while granting approval under clause (a).

(3) The Authority may review or revise the National Electricity Plan in accordance with the National Electricity Policy.

(4) The Central Government may, after such consultation with the State Governments as may be considered necessary, notify policies and adopt measures for promotion of Renewable Energy Generation including through tax rebates, generation linked incentive, creation of national renewable energy fund, development of renewable industry and for effective implementation and enforcement of such measures.”.

Amendment
of section 4.

4. In section 4 of the principal Act, for the words “notify a national policy, permitting stand alone systems”, the words “notify a national policy for harnessing solar power and other forms of renewable energy to ensure electricity to un-electrified rural households and permitting stand alone systems” shall be substituted.

Amendment
of section 6.

5. In section 6 of the principal Act, for the word “areas” the words “parts of the country” shall be substituted.

Substitution of
new section for
section 7.

6. For section 7 of the principal Act, the following section shall be substituted, namely:—

Generating
company and
requirement
for setting up
of generating
station.

“7. (1) Any generating company may establish, operate and maintain a generating station without obtaining a licence under this Act, if it complies with the technical standards relating to connectivity with the grid referred to in clause (b) of section 73:

Provided that any generating company establishing may be required by the system operator to build and maintain a spinning reserve of such capacity as may be notified by the Central Government from time to time:

Provided further that any generating company before establishing or expanding the capacity of a generating station shall submit a detailed project report and duly inform about the same to the Authority.

Explanation.—For the purposes of sub-section (1), the expression “spinning reserve” means the backup capacity of a generating station which shall be made available on the directions of the system operator, within a time limit as may be notified by the Central Government, to maintain grid safety and security.

(2) Notwithstanding anything contained in sub-section (1), any generating company establishing a coal and lignite based thermal generating station after a date and in a manner to be notified shall be required to establish a Renewable Energy Generation capacity as prescribed by the Central Government from time to time which shall not be less than ten per cent. of the thermal power installed capacity.

(3) In case any existing coal and lignite based thermal power generating station, with the concurrence of power procurers under the existing Power Purchase Agreements, chooses for setting up additional renewable energy generating capacity, the energy produced from there shall be allowed to be bundled and pass through shall

be allowed in such cases by the Appropriate Commission and the Obligated Entities who finally buy such power shall account the same towards their renewable purchase obligations.”.

7. In section 8 of the principal Act,—

Amendment
of section 8.

(a) in sub-section (1), after the words “hydro-generating station”, the words “including multipurpose hydro facilities with power generation” shall be inserted;

(b) in sub-section (2), after clause (b), the following clause shall be inserted, namely:—

“(c) project should maintain minimum ecological flow in the river.”.

8. For section 12 of the principal Act, the following section shall be substituted, namely:—

Substitution
of new
section for
section 12.

“12. (1) No person shall—

(a) transmit electricity; or

(b) distribute electricity; or

(c) undertake trading in electricity; or

(d) supply of electricity to consumer,

Authorised
persons to
transmit,
distribute, etc.,
electricity.

unless he is authorised to do so by a licence issued under section 14, or is exempt under section 13:

Provided that no licence shall be required by a generating company, a captive generating plant and a trading licensee for supply of electricity to open access consumer in any place:

Provided further that no licence shall be required for the activities assigned to the intermediary company under the Act.

(2) The Appropriate Commission shall not grant licence to more than one distribution licensee in any area of distribution:

Provided that where two or more distribution licensees within the same area of distribution are existing on the date of the commencement of the Electricity (Amendment) Act, 2014, they shall continue their operation till such period as specified in their licence.

(3) Without prejudice to sub-section (2), the Central Government in consultation with the Appropriate Commission may, in public interest, permit more than one distribution licensee to operate in any area, if it is considered necessary.”.

9. For section 14 of the principal Act, the following section shall be substituted, namely:—

Substitution
of new
section for
section 14.
Grant of
licence.

“14. The Appropriate Commission may, on an application made to it under section 15, grant a licence to any person—

(a) to transmit electricity as a transmission licensee; or

(b) to distribute electricity as a distribution licensee:

Provided that the Developer of a Special Economic Zone notified under sub-section (1) of section 4 of the Special Economic Zones Act, 2005, shall be deemed to be a licensee for the purpose of this clause, with effect from the date of notification of such Special Economic Zone:

Provided further that the decentralised distributed generation networks not connected to the distribution system may continue to operate without getting connected to the distribution system, even in case of grant of licence for operation of the distribution system in that area; or

(c) to undertake trading in electricity as an electricity trader; or

(d) to supply electricity as a supply licensee,

in any area as may be specified in the licence:

Provided that any person engaged in the business of transmission or supply of electricity under the provisions of the repealed laws or any Act specified in the Schedule on or before the appointed date shall be deemed to be a licensee under this Act for such period as may be stipulated in the licence, clearance or approval granted to him under the repealed laws or such Act specified in the Schedule, and the provisions of the repealed laws or such Act specified in the Schedule in respect of such licence shall apply for a period of one year from the date of the commencement of this Act or such earlier period as may be specified, at the request of the licensee, by the Appropriate Commission and thereafter the provisions of this Act shall apply to such business:

Provided further that any person engaged in the business of distribution of electricity on or before the commencement of the Electricity (Amendment) Act, 2014 shall be deemed to have authorisation to undertake distribution of the electricity as a distribution licensee and also to supply electricity as a supply licensee till the transfer scheme under clauses (a) and (b) of sub-section (4A) of section 131 is effective in accordance with the provisions of this Act, where upon the distribution business and the supply business shall be undertaken in the manner as stipulated in the said transfer scheme:

Provided also that the Central Transmission Utility or the State Transmission Utility shall be deemed to be a transmission licensee under this Act:

Provided also that in case an Appropriate Government transmits electricity or distributes or supplies electricity or undertakes trading in electricity, whether before or after the commencement of this Act, such Government shall be deemed to be a licensee under this Act, but shall not be required to obtain a licence under this Act:

Provided also that the Railways as defined under the Indian Railways Act, 1989 and the Metro Rail Corporation established under the Metro Railways (Operation and Maintenance) Act, 2002 be deemed to be a licensee under this Act, and shall not be required to obtain a licence under this Act:

24 of 1989.

60 of 2002.

Provided also that the Damodar Valley Corporation, established under sub-section (1) of section 3 of the Damodar Valley Corporation Act, 1948, shall be deemed to be a licensee under this Act but shall not be required to obtain a licence under this Act and the provisions of the Damodar Valley Corporation Act, 1948, insofar as they are not inconsistent with the provisions of this Act, shall continue to apply to that Corporation:

14 of 1948.

Provided also that the Government company or the company referred to in sub-section (2) or sub-section (4) or sub-section (4A) of section 131 of this Act and the company or companies created in pursuance of the Acts specified in the Schedule or any company or companies as may be notified by the Central Government, shall be deemed to be a licensee under this Act:

Provided also that the Appropriate Commission may grant a licence to two or more persons for supply of electricity within the same area of supply, subject to the conditions that the applicant for grant of supply licence within the same area shall, without prejudice to the other conditions or requirements under this Act, comply with the additional requirements (relating to the capital adequacy, Credit worthiness or code of conduct) as may be prescribed by the Central Government, and no such applicant, who complies with all the requirements for grant of licence, shall be refused grant of licence on the ground that there already exists a licensee in the same area for the same purpose:

Provided also that at least one of the supply licensee shall be a Government company or Government Controlled Company:

Provided also that where a person intends to generate, distribute and supply electricity in a rural area to be notified by the State Government, such person shall not require any licence for such generation, distribution and supply of electricity, but he shall comply with the measures which may be specified by the Authority under section 53:

Provided also that where a person intends to generate and supply electricity from renewable energy sources, such person shall not require any licence for such generation and supply of electricity, but he shall comply with the measures which may be specified by the Authority under sections 53 and 73:

Provided also that a supply licensee shall not require a licence to undertake trading in electricity:

Provided also that a distribution licensee, after effective date of transfer under sub-section (4A) of section 13, shall not engage in trading or supply of electricity:

Provided also that in a case where a distribution licensee was undertaking the distribution of electricity, prior to the commencement of the Electricity (Amendment) Act, 2014, for a specified area within his area of distribution through a franchisee such franchisee shall not be required to obtain any separate licence from the State Commission concerned and such distribution licensee shall remain responsible for distribution and supply of electricity in that area of distribution till the expiry of the existing agreement with the distribution and supply licensee of that area.”.

10. In section 15 of the principal Act, for sub-section (8), the following sub-section shall be substituted, namely:—

Amendment
of section 15.

“(8) A licence shall continue to be in force for a period of twenty-five years or more as may be specified in the licence, unless such licence is revoked or renewed.”.

11. In section 20 of the principal Act,—

Amendment
of section 20.

(a) in sub-section (1),—

(i) in the opening portion, after the words “licence of any licensee”, the words “or when the duration of any licence expires” shall be inserted;

(ii) in clause (a), after the words “licence has been revoked”, the words and brackets “or expires (hereinafter referred to as the outgoing licensee)” shall be inserted;

(iii) in clause (c), after the words “revocation of licence”, the words “or expiry of the period of the licence” shall be inserted;

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Where a utility is sold under sub-section (1), the purchaser shall pay to the licensee the purchase price of the utility in such manner as may be agreed upon between the parties.”;

(c) in sub-section (3), for the words “the licensee” wherever they occur, the words “the outgoing licensee” shall be substituted.

12. For section 24 of the principal Act, the following section shall be substituted, namely:—

Substitution
of new
section for
section 24.

“24. (1) If at any time the Appropriate Commission is of the opinion that a distribution licensee or a supply licensee—

Suspension of
distribution
licence or
supply licence
and sale of
utility.

(a) has persistently failed to maintain uninterrupted distribution or supply of electricity conforming to standards regarding quality of electricity to the consumers; or

(b) is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Act; or

(c) has persistently defaulted in complying with any direction given by the Appropriate Commission under this Act; or

(d) has broken the terms and conditions of licence,

and circumstances exist which render it necessary for it in public interest so to do, the Appropriate Commission may, for reasons to be recorded in writing, suspend, for a period not exceeding one year, the licence of the distribution licensee or a supply licensee and appoint an Administrator to discharge the functions of the distribution licensee or a supply licensee in accordance with the terms and conditions of the licence:

Provided that before suspending a licence under this section, the Appropriate Commission shall give a reasonable opportunity to the distribution licensee or a supply licensee to make representations against the proposed suspension of licence and shall consider the representations, if any, of the distribution licensee or a supply licensee.

(2) Upon suspension of licence under sub-section (1), the utilities of the distribution licensee or a supply licensee shall vest in the Administrator for a period not exceeding one year or up to the date on which such utility is sold in accordance with the provisions contained in section 20, whichever is later.

(3) The Appropriate Commission shall, within one year of appointment of the Administrator under sub-section (1), either revoke the licence in accordance with the provisions contained in section 19 or revoke suspension of the licence and restore the utility to the distribution licensee or a supply licensee whose licence had been suspended, as the case may be.

(4) In a case where the Appropriate Commission revokes the licence under sub-section (3), the utility of the distribution licensee or a supply licensee shall be sold within a period of one year from the date of revocation of the licence in accordance with the provisions of section 20 and the price after deducting the administrative and other expenses on sale of utilities and such other amounts as may be due from the licensee shall be remitted to the distribution licensee or a supply licensee.”.

Amendment
of section 29.

13. In section 29 of the principal Act, for sub-section (6), the following sub-section shall be substituted, namely:—

“(6) If any licensee fails to comply with the directions issued under sub-section (2) or sub-section (3), he shall be liable to a penalty not exceeding ten crore rupees:

Provided that in case of non-compliance of the directions issued under sub-section (2) or sub-section (3), by a generating company for generating renewable energy, such generating company for generating renewable energy shall be liable to a penalty not exceeding one crore rupees.”.

Amendment
of section 33.

14. In section 33 of the principal Act, for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) If any licensee fails to comply with the directions issued under sub-section (1), he shall be liable to a penalty not exceeding one crore rupees:

Provided that in case of non-compliance of the directions issued under sub-section (1), by a generating company for generating renewable energy, such generating company for generating renewable energy shall be liable to a penalty not exceeding ten lakh rupees.”.

15. For section 34 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 34.

“34. Every licensee or generating company, person owning and maintaining dedicated transmission lines and any other person whose system is connected to the grid shall comply with such technical standards of operation and maintenance of transmission lines, in accordance with the Grid Standards, as may be specified by the Authority.”.

Grid Standards.

16. In section 37 of the principal Act, after the words “necessary for”, the words “grid security and safety and for” shall be inserted.

Amendment of section 37.

17. In section 38 of the principal Act, in sub-section (2), in clause (d), for sub-clause (ii), the following sub-clause shall be substituted, namely:—

Amendment of section 38.

“(ii) any consumer as and when such open access is provided by the State Commission under sub-section (2) of section 42, on payment of the transmission charges, as may be specified by the Central Commission and surcharge if any determined by the Appropriate Commission of the State in which the premises of the consumer is located:”.

18. In section 39 of the principal Act, in sub-section (2), in clause (d), in sub-clause (ii),—

Amendment of section 39.

(a) for the words “as may be specified by the State Commission”, the words “if any determined by the Appropriate Commission of the State” shall be substituted;

(b) in the second proviso, for the words “State Commission”, the words “Appropriate Commission” shall be substituted;

(c) in third proviso, for the words “State Commission”, the words “Appropriate Commission” shall be substituted.

19. In section 40 of the principal Act, in clause (c), in sub-clause (ii), for the words “as may be specified by the State Commission”, the words “as may be specified by the Appropriate Commission of the State in which the premises of the consumer is located” shall be substituted.

Amendment of section 40.

20. For section 42 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 42.

“42. (1) It shall be the duty of a distribution licensee to—

Duties of distribution licensee and open access.

(a) develop and maintain an efficient, co-ordinated and economical distribution system in his area of distribution and to enable supply electricity in accordance with the provisions contained in this Act;

(b) provide non-discriminatory open access to its distribution system as specified by the Appropriate Commission;

(c) perform such other functions, not inconsistent with the Act as may be specified by the Appropriate Commission.

(2) The State Commission shall introduce open access for use of distribution system in such phases and subject to such conditions, (including the cross subsidies, and other operational constraints) as may be specified within one year of the appointed date by it and in specifying the extent of open access in successive phases and in determining the charges for wheeling, it shall have due regard to all relevant factors including such cross subsidies, and other operational constraints.

(3) The open access shall be allowed on payment of a surcharge which shall be in addition to the wheeling and other charges payable to the distribution licensee, as compensatory charges determined by the State Commission to meet the requirement of cross subsidy in the area of supply:

Provided that the surcharge and cross subsidies referred to sub-section (2) and sub-section (3) shall be progressively reduced in the manner as may be specified by the State Commission:

Provided further that such surcharge shall not be leviable in case open access is provided to a person who has established a captive generating plant for carrying the electricity to the destination of his own use.

(4) The open access consumers procuring electricity from renewable energy sources shall not be required to pay the surcharge for open access for such period as may be prescribed by the Central Government.

(5) Notwithstanding anything contained in this section, the open access consumer shall not switch over to any other supplier except by giving the notice of minimum time period as may be specified by the Appropriate Commission.”.

Substitution
of new
section for
section 43.

Duty to
connect on
request.

21. For section 43 of the principal Act, the following section shall be substituted, namely:—

‘43. (1) Save as otherwise provided in this Act, every distribution licensee, shall, on an application by the owner or occupier of any premises in the area of distribution, give connection to such premises to enable supply of electricity, within fifteen days after receipt of the application requiring such supply:

Provided that where such connectivity to the premises requires extension of distribution mains, or commissioning of new sub-stations, the distribution licensee shall give connection to enable supply of electricity to such premises immediately after such extension or commissioning or within such period as may be specified by the Appropriate Commission:

Provided further that in case of a village or hamlet or area wherein no provision for supply of electricity exists, the Appropriate Commission may extend the said period as it may consider necessary for electrification of such village or hamlet or area.

Explanation.—For the purposes of this sub-section, the expression “application” means the application complete in all respects in the appropriate form, as required by the distribution licensee, along with documents showing payment of necessary charges and other compliances.

(2) It shall be the duty of every distribution licensee to provide, if required, electric plant or electric line for connectivity and enabling electric supply to the premises specified in sub-section (1).

(3) If a distribution licensee fails to give connection to the premises in the area of distribution within a period specified in sub-section (1), he shall be liable to a penalty which may extend to one thousand rupees for each day of default.’.

Amendment
of section 44.

22. In section 44 of the principal Act, for the words “licensee to give supply”, the words “licensee to distribute electricity” shall be substituted.

Substitution of
new section for
section 45.

Power to
recover
charges.

23. For section 45 of the principal Act, the following section shall be substituted, namely:—

“45. (1) Subject to the provisions of this section, the prices to be charged by a distribution licensee for the distribution of electricity by him in pursuance of section 43 shall be in accordance with such tariffs determined by the Appropriate Commission and such charges authorised by the Appropriate Commission or otherwise fixed from time to time and conditions of his licence.

(2) Subject to the provisions of section 62, in determining charges under this section a distribution licensee shall not show undue preference to any person or class of persons or discrimination against any person or class of persons.”.

24. After section 45 of the principle Act, the following section shall be inserted, namely:—

Insertion of new section 45A.

“45A. The Appropriate Government may, in consultation with the Appropriate Commission and the concerned authorities, prescribe the manner of collection and realisation of any dues under the relevant laws for the time being in force in the State along with the electricity dues.”.

Collection and realisation of other dues along with electricity dues.

25. In section 46 of the principal Act,—

Amendment of section 46.

(i) for the words “requiring a supply of electricity”, the words “requiring connectivity to the distribution system” shall be substituted;

(ii) for the words “giving and supply”, the words “giving and maintaining the connection for enabling supply of electricity” shall be substituted.

26. In section 47 of the principal Act,—

Amendment of section 47.

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Subject to the provisions of this section, a distribution licensee in the area of distribution may require any person, who requires connectivity to the distribution system in pursuance of section 51A, to give him reasonable security, as may be determined by regulations, for the payment to him of all monies which may become due to him—

(a) in respect of the electricity distributed to such person; or

(b) where any electric line or electrical plant or electric meter is to be provided for distributing electricity to such person, in respect of the provision of such line or plant or meter,

and if that person fails to give such security, the distribution licensee may, if he thinks fit, refuse to distribute electricity or to provide the line or plant or meter for the period during which the failure continues.”;

(ii) in sub-section (2), for the words “supply of electricity”, the words “distribution of electricity” shall be substituted;

(iii) in sub-section (3), for the words “supply of electricity”, the words “distribution of electricity” shall be substituted.

27. In section 48 of the principal Act,—

Amendment of section 48.

(i) in the opening portion, for the words “supply of electricity”, the words “distribution of electricity” shall be substituted;

(ii) in clause (b), for the word “supplied” occurring at the end, the word “distributed” shall be substituted.

28. For section 49 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 49.

“49. (1) With effect from the commencement of the Electricity (Amendment) Act, 2014, all consumers having a connected load of 1 MegaWatt and above with the power system, may procure at their option electricity through open access under bilateral arrangement from any generating company, trading licensee, or from any other source.

Agreements with respect to supply or purchase of electricity.

(2) Notwithstanding anything contained in clause (d) of sub-section (1) of section 62, the consumers mentioned in sub-section (1), may enter into an agreement with any person for supply or purchase of electricity on such terms and conditions (including tariff) as may be agreed upon by them.”.

Substitution
of new
section for
section 50.

29. For section 50 of the principal Act, the following section shall be substituted, namely:—

The
Electricity
Distribution
Code.

“50. The State Commission shall specify an Electricity Distribution Code to provide for recovery of electricity charges, intervals for billing of electricity charges, disconnection of connectivity of electricity for non-payment thereof, restoration of supply of electricity, measures for preventing tampering, distress or damage to electrical plant or electrical line or meter, entry of distribution licensee or any person acting on his behalf for disconnecting connection and removing the meter, entry for replacing, altering or maintaining electric lines or electrical plants or meter and such other matters.”.

Insertion of
new Part VIA
and sections
51A to 51G.

30. After Part VI of the principal Act, the following Part and sections shall be inserted, namely:—

‘PART VIA

SUPPLY OF ELECTRICITY

Duties of
supply
licensee.

51A. (1) It shall be the duty of the supply licensees to supply electricity in the concerned area of supply in accordance with the provisions of the Act:

Provided that till the transfer of the obligation to supply to the incumbent supply licensee, the existing distribution licensee shall have the obligations to continue to supply electricity in the area of supply in accordance with the provisions of the Act with the same rights, privileges and duties of the supply licensee.

(2) The Appropriate State Government shall, within a period of one year from the commencement of the Electricity (Amendment) Act, 2014 or within such period as the Appropriate State Government may decide in consultation with the Central Government, provide for separation of distribution and supply of electricity and for such purpose issue appropriate transfer scheme and vest the supply functions in the incumbent supply licensee and the existing power purchase agreements and procurement arrangement in the intermediary company respectively as per the provision of section 131.

Duty to
supply on
request.

51B. (1) The supply licensee as selected by the consumer shall, on an application of the owner or occupier of any premises within fifteen days of the connection being given to the premises by the distribution licensee in terms of section 43 commence supply of electricity as required by the person:

Provided that a supply licensee other than the incumbent supply licensee shall have the duty to supply electricity progressively based on the load factor of the consumers as specified by the Central Government.

(2) Save as otherwise provided in this Act, any consumer in the area of supply shall, in such manner as may be prescribed by the Central Government; have the option to choose any of the supply licensees for supply of electricity to the premises owned or occupied by him.

Explanation.—For the purposes of this sub-section, “application” means the application complete in all respects in the appropriate form, as required by the supply licensee, along with documents showing payment of necessary charges and other compliances:

Provided that the provider of last resort shall have the obligation to supply electricity to the consumers in the area of supply in case the supply licensee chosen by the consumer ceases to be a supply licensee or otherwise his supply licence is suspended for any reason whatsoever.

(3) It shall be the duty of every supply licensee to arrange for the purchase of electricity including by procurement of electricity from the intermediary company with the objective of providing reliable and uninterrupted electricity supply.

(4) If a supply licensee fails to give supply of electricity within a period as mentioned in sub-section (1), he shall be liable to a penalty which may extend to one thousand rupees for each day of default.

51C. Nothing contained in section 51B, shall be taken as requiring a supply licensee to give supply of electricity to any premises in its area of supply, if he is prevented from so doing by cyclone, floods, storms or other occurrences beyond his control.

Exceptions from duty to supply electricity.

51D. (1) Subject to the provisions of this section, the prices to be charged by a supply licensee for the supply of electricity by him in pursuance of section 51B shall be in accordance with such tariffs fixed from time to time and conditions of his licence.

Power to recover charges.

(2) The charges for electricity supplied by a supply licensee in the area of supply shall be—

(a) fixed in accordance with the methods and the principles as may be specified by the concerned State Commission;

(b) published in such manner so as to give adequate publicity for such charges and prices.

(3) The charges for electricity supplied by a supply licensee in the area of supply may include a fixed charge in addition to the charge for the actual electricity supplied.

(4) Subject to the provisions of section 62, in fixing charges under this section a supply licensee shall not show undue preference to any person or class of persons or discrimination against any person or class of persons.

(5) The charges fixed by a supply licensee shall be market determined:

Provided that the Appropriate Commission shall determine a ceiling charge based on the normative costs and standards of performance, subject to sub-section (3) and sub-section (4) of section 62:

Provided further that the supply licensee shall not charge any amount higher than the ceiling charge as applicable to all consumers in a category.

(6) Notwithstanding anything contained in this Act, the supply licensee may, with the prior approval of the Appropriate Commission, charge any amount higher than the ceiling charge as may be mutually agreed with any consumer.

51E. (1) Subject to the provisions of this section, a supply licensee may require any person, who requires a supply of electricity in pursuance of section 51B, to give him reasonable security, as may be determined by regulations, for the payment to him of all monies which may become due to him in respect of the electricity supplied to such person; and if that person fails to give such security, the supply licensee in the area of supply may, if he thinks fit, refuse to give the supply of electricity for the period during which the failure continues.

Power to require security.

(2) Where any person has not given such security as is mentioned in sub-section (1) or the security given by any person has become invalid or insufficient, the supply licensee may, by notice, require that person, within thirty days after the service of the notice, to give him reasonable security for the payment of all monies which may become due to him in respect of the supply of electricity.

(3) If the person referred to in sub-section (2) fails to give such security, the supply licensee may, if he thinks fit, discontinue the supply of electricity for the period during which the failure continues.

(4) The supply licensee shall pay interest with reference to the bank rate, as may be specified by the State Commission, on the security referred to in sub-section (1), and refund such security on the request of the person who gave such security.

A supply licensee shall not be entitled to require security in pursuance of clause (a) of sub-section (1) if the person requiring the supply is prepared to take the supply through a pre-payment meter.

Additional
terms of
supply.

51F. A supply licensee may require any person who requires a supply of electricity in pursuance of section 51B to accept—

(a) any restrictions which may be imposed for the purpose of enabling the supply licensee to comply with the regulations made under section 53;

(b) any terms restricting any liability of the supply licensee for economic loss resulting from negligence of the person to whom the electricity is supplied.

The
electricity
supply code.

51G. The State Commission shall specify an Electricity Supply Code to provide for recovery of electricity charges, intervals for billing of electricity charges, disconnection of supply of electricity for non-payment thereof, assessment for unauthorised use and theft of electricity, restoration of supply of electricity and such other matters.’.

Insertion of
new Part VIB
and section
51H.

31. After Part VIA of the principal Act, as so inserted, the following Part and section shall be inserted, namely:—

“PART VIB

OTHER PROVISIONS RELATING TO DISTRIBUTION AND SUPPLY OF ELECTRICITY

Consumer
grievances
redressal.

51H. (1) Every distribution licensee or supply licensee, as the case may be having the obligation to supply in the area of supply, shall, within six months from the appointed date or date of grant of licence, whichever is earlier, establish a forum for redressal of grievances of the consumers in accordance with the guidelines as may be specified by the State Commission.

(2) Any consumer, who is aggrieved by non-redressal of his grievances under sub-section (1), may make a representation for the redressal of his grievance to an authority to be known as Ombudsman to be appointed or designated by the State Commission.

(3) The Ombudsman shall settle the grievance of the consumer within such time and in such manner as may be specified by the State Commission.

(4) The provisions of sub-sections (1), (2) and (3) shall be without prejudice to right which the consumer may have apart from the rights conferred upon him by those sub-sections.”.

Amendment
of section 54.

32. In section 54 of the principal Act, in sub-section (1), in the proviso, after the words and figures “the Railways Act, 1989”, the words, brackets and figures “or metro railway under the Metro Railways (Operation and Maintenance) Act, 2002” shall be inserted.

24 of 1989.
60 of 2002.

Amendment of
section 55.

33. In section 55 of the principal Act, in sub-section (2), the following proviso shall be inserted, namely:—

“Provided that there smart meters, as specified by the Authority, shall be installed at each stage for proper accounting and measurement for the purpose of metering and consumption from the point of generation up to such consumers who consume more than the quantity of electricity in a month as may be prescribed by the Central Government.”.

34. In section 56 of the principal Act, after sub-section (I), the following sub-section shall be inserted, namely:—

Amendment of section 56.

“(IA) Nothing contained in this section shall require the supply licensee to disconnect electricity in case of prepayment meter in excess of the quantum of electricity pre-paid by the consumer.”.

35. After section 59 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 59A.

“59A. In case any complaint is filed before the Appropriate Government and if the Appropriate Government is satisfied that any licensee has not discharged any of the functions assigned to him by the Act, including the standards of performance specified by the Appropriate Commission, the Appropriate Government may recommend for the revocation of licence of the said licensee.”.

Recommendation of Appropriate Government for revocation of licence.

36. Section 61 of the principal Act shall be numbered as sub-section (I) thereof and,—
(a) in sub-section (I) as so numbered—

Amendment of section 61.

(i) for clause (d), the following clause shall be substituted, namely:—

“(d) safeguarding of consumers’ interest and at the same time, recovery of the cost of electricity by the licensees without any revenue deficit in the context of the tariff determined under section 62:

Provided that the revenue deficit, if any, prior to the commencement of the Electricity (Amendment) Act, 2014, shall be recovered in such manner as may be prescribed by the Appropriate Government.”;

(ii) for clause (h), the following clause shall be substituted, namely:—

“(h) the promotion of co-generation and generation of electricity from renewable sources of energy and hydro power;”;

(iii) in clause (i), the words “and tariff policy” shall be omitted.

(b) after sub-section (I) as so numbered the following sub-section shall be inserted, namely:—

“(2) Notwithstanding anything contained in this Act, the provisions of Tariff Policy shall be followed by the Appropriate Commission for the purpose of tariff determination.”.

37. For section 62 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 62.

“62. (I) The Appropriate Commission shall determine the tariff in accordance with the provisions of this Act for—

Determination of tariff.

(a) supply of electricity by a generating company to a supply licensee including supply of electricity under a back to back arrangement involving an intermediary company, electricity trader or any other licensee:

Provided that the Appropriate Commission may, in case of shortage of supply of electricity, fix the minimum and maximum ceiling of tariff for sale or purchase of electricity in pursuance of an agreement, entered into between a generating company and a licensee or between licensees, for a period not exceeding one year to ensure reasonable prices of electricity:

Provided further that there shall be no such determination of tariff by the Appropriate Commission under this clause (a) to the extent the Central Government specifies that the procurement of electricity from the sources identified for the purpose by the supply licensee shall be done only by competitive bidding as per section 63;

(b) purchase of electricity by the supply licensee from the intermediary company;

(c) transmission of electricity;

(d) wheeling of electricity;

(e) retail sale of electricity:

Provided that the tariff determined for retail sale of electricity shall be the ceiling tariff for the respective categories of consumers, the supply licensee shall be entitled to charge any consumer category at an amount lesser than the ceiling tariff, subject to sub-section (3) and also, without in any way affecting the obligation of a supply licensee to pay the intermediary company, the transmission licensee, the distribution licensee and generating company, as the case may be.

(2) The tariff determined by the Appropriate Commission for a licensee shall provide for recovery of all prudent costs of the licensee approved by the Appropriate Commission in the monthly bills during the tariff period through an appropriate price adjustment formula including wherever applicable the fuel, power purchase and procurement price surcharge formula as may be specified in the Tariff Policy.

(3) The Appropriate Commission may require a licensee or a generating company to furnish separate details, as may be specified in respect of generation, transmission, distribution and supply for determination of tariff.

(4) The Appropriate Commission shall not, while determining the tariff under this Act, show undue preference to any consumer of electricity but may differentiate according to the consumer's load factor, power factor, voltage, total consumption of electricity during any specified period or the time at which the supply is required or the geographical position of any area, the nature of supply and the purpose for which the supply is required.

(5) No tariff or part of any tariff may ordinarily be amended, more frequently than once in any financial year, except in respect of fuel and power purchase price adjustment which shall be permitted under the terms of the fuel and power purchase price adjustment formula as may be specified by the Appropriate Commission.

(6) The Commission may require a licensee or a generating company to comply with such procedure as may be specified for calculating the expected revenues from the tariff and charges which he or it is permitted to recover.

(7) If any licensee or a generating company recovers a price or charge exceeding the tariff determined under this section, the excess amount shall be recoverable by the person who has paid such price or charge along with interest equivalent to the bank rate without prejudice to any other liability incurred by the licensee.”

Amendment
of section 64.

38. In section 64 of the principal Act,—

(i) after sub-section (1), the following sub-sections shall be inserted, namely:—

“(1A) If the application is not filed in time the Appropriate Commission shall, not later than thirty days of the last date specified for such filing, on its own initiate proceedings for determination of tariff and call for such information, details and document as the Appropriate Commission may require for such determination.

(1B) The Appropriate Commission may draw adverse inference against the generating company or licensee for the failure to provide any information, details and document required to be filed before the Appropriate Commission.”

(ii) in sub-section (3), in the opening portion, for the words “one hundred and twenty days from receipt of an application”, the words “ninety days from receipt of application or initiation of proceedings, as the case may be,” shall be substituted.

39. For section 66 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 66.

“66. The Appropriate Commission shall endeavour to promote the development of a market (including trading and forward and futures contract) in power and a market for encouraging energy efficiency in power in such manner as may be specified and shall be guided by the National Electricity Policy, referred to in section 3, and other directions issued by the Central Government in the public interest from time to time.”.

Development of market.

40. In section 67 of the principal Act, in sub-section (1), for the words “supply or transmission”, the words “distribution or transmission” shall be substituted.

Amendment of section 67.

41. In section 68 of the principal Act,—

Amendment of section 68.

(i) in sub-section (1), after the word, brackets and figure “sub-section (2)”, the words and figures “of section 67” shall be inserted;

(ii) in sub-section (5), after the words “application of the licensee”, the words “or the generating company” shall be substituted;

(iii) in sub-section (6), and before the *Explanation*, after the words “from the licensee”, the words “or the generating company” shall be inserted.

42. After section 69 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 69A.

“69A. Whenever any person is carrying out any activity within the area of any transmission or distribution licensee or within the area of any other person operating and maintaining any system for conveyance of electricity and such activity is likely to have any implication on the transmission system or distributions system of such licensee or of such other person, such person shall obtain the prior consent of such licensee or such other person, as the case may be, in such manner as may be specified by the Appropriate Commission.”.

No objection of licensees.

43. For section 70 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 70.

“70. (1) There shall be a body constituted by the Central Government to be called the Central Electricity Authority to exercise such functions and perform such duties as are assigned to it under this Act.

Constitution, etc., of Central Electricity Authority.

(2) The Central Electricity Authority, established under section 3 of the Electricity (Supply) Act, 1948 and functioning as such immediately before the date of commencement of the Electricity (Amendment) Act, 2014, shall be deemed to be the Central Electricity Authority for the purposes of this Act and the Chairperson, Members, Secretary and other officers and employees thereof shall be deemed to have been appointed under this Act and they shall continue to hold office on the same terms and conditions on which they were appointed under the Electricity (Supply) Act, 1948.

(3) The Authority shall consist of not more than fourteen Members (including its Chairperson) of whom not more than eight shall be full-time Members to be appointed by the Central Government.

(4) (a) The Central Government may appoint the Chairperson and Members of the Authority from amongst persons of ability, integrity and standing who have knowledge of, and adequate experience and capacity in, dealing with problems relating to engineering, finance, commerce, economics or industrial matters, and at least one Member shall be appointed from each of the following categories, namely:—

(i) engineering with specialisation in design, construction, operation and maintenance of generating stations;

(ii) engineering with specialisation in transmission and supply of electricity;

(iii) applied research in the field of electricity;

(iv) applied economics, accounting, commerce or finance;

(b) The terms and conditions, including the eligibility and experience of the Chairperson and Members to be appointed by the Central Government shall be such as may be prescribed.

(5) The Chairperson shall be the Chief Executive of the Authority.

(6) The headquarters of the Authority shall be at Delhi.

(7) The Authority shall meet at the head office or any other place at such time as the Chairperson may direct, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meetings) as it may specify.

(8) The Chairperson, or if he is unable to attend a meeting of the Authority, any other Member nominated by the Chairperson in this behalf and in the absence of such nomination or where there is no Chairperson, any Member chosen by the Members present from among themselves shall preside at the meeting.

(9) All questions which come up before any meeting of the Authority shall be decided by a majority of votes of the Members present and voting, and in the event of an equality of votes, the Chairperson or the person presiding shall have the right to exercise a second or casting vote.

(10) All orders and decisions of the Authority shall be authenticated by the Secretary or any other officer of the Authority duly authorised by the Chairperson in this behalf.

(11) No act or proceeding of the Authority shall be questioned or shall be invalidated merely on the ground of existence of any vacancy in, or any defect in, the constitution of, the Authority.

(12) The Chairperson of the Authority and other full-time Members shall receive such salary and allowances as may be determined by the Central Government and other Members shall receive such allowances and fees for attending the meetings of the Authority, as may be prescribed by the Central Government.”.

Amendment
of section 78.

44. In section 78 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The Central Government shall, for the purposes of selecting the Members of the Appellate Tribunal and the Chairperson and Members of the Central Commission, constitute a Selection Committee consisting of—

(a) Chairperson of the Public Enterprises Selection Board.....
Chairperson, *ex officio*;

(b) Secretary-in-charge of the Ministry of the Central Government
dealing with the Department of Consumer AffairsMember,
ex officio;

(c) Secretary-in-charge of the Ministry of the Central Government
dealing with the Department of Legal Affairs.....Member, *ex officio*;

(d) a person to be nominated by the Central Government in
accordance with sub-section (2)..... Member;

(e) a person to be nominated by the Central Government in
accordance with sub-section (3)..... Member;

(f) Secretary-in-charge of the Ministry of the Central Government
dealing with PowerMember, *ex officio*.”;

(b) in sub-section (2), for the words and figures “the Companies Act, 1956”, the words and figures “the Companies Act, 2013” shall be substituted.

1 of 1956.

18 of 2013.

45. In section 79 of the principal Act, in sub-section (I), for clause (c), the following clause shall be substituted, namely:—

Amendment
of section 79.

“(c) to regulate the inter-State transmission of electricity including promotion and development of Smart Grid, ancillary services and decentralised distributed generation;”.

46. In section 85 of the principal Act,—

Amendment
of section 85.

(a) for sub-section (I), the following sub-section shall be substituted, namely:—

“(I) The State Government shall, for the purposes of selecting the Members of the State Commission, constitute a Selection Committee consisting of—

(a) a person who has been a Judge of the High Court.....Chairperson;

(b) the Chief Secretary of the concerned State..... Member;

(c) the Chairperson of the Authority..... Member;

(d) the Chairperson of the Central Commission or a Member of the Central Commission to be nominated by the Chairperson..... Member;

(e) a person to be nominated by the State Government in accordance with sub-section (2A)..... Member;

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) For the purposes of clause (e) of sub-section (I), the State Government shall nominate from amongst persons holding the post of Chairperson or managing director, by whatever name called, of any public financial institution specified in the Companies Act, 2013.”;

18 of 2013.

(c) after sub-section (5), the following sub-section shall be inserted, namely:—

“(5A) In case of delay in the constitution of the selection committee for more than two months or in appointment of the Chairperson or Members of the State Commission for more than five months, the Central Government shall be entitled to nominate one officer from the Central Electricity Authority not below the rank of Chief Engineer as *ex officio* member of that Commission and to discharge the functions of the Member till such time the Member is appointed in terms of this section and the Member assumes the charge.”.

47. In section 86 of the principal Act, for sub-section (I), the following sub-section shall be substituted, namely:—

Amendment
of section 86.

“(I) The State Commission shall discharge the following functions, namely:—

(a) determine the tariff for generation, supply, transmission and wheeling of electricity, wholesale, bulk or retail, as the case may be, within the State:

Provided that where open access has been permitted to a category of consumers under section 42, the State Commission shall determine only the wheeling charges and surcharge thereon, if any, for the said category of consumers;

(b) regulate electricity purchase and procurement process of supply licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for supply within the State;

(c) facilitate intra-State transmission and wheeling of electricity and promote Smart Grid, net metering, ancillary services and decentralised distributed generation;

(d) issue licences to persons seeking to act as transmission licensees, distribution licensees, supply licensees and electricity traders with respect to their operations within the State;

(e) promote cogeneration from renewable sources of energy and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a supply licensee;

(f) promote cogeneration from sources other than renewable sources and hydro power generation by providing suitable measures for connectivity with the grid and sale of electricity to the, licensee having the obligation to supply to consumers in the area of supply;

(g) adjudicate upon the disputes amongst the licensees, generating companies, intermediary company or between any of them, as the case may be, and to refer any dispute for arbitration;

(h) levy fee for the purposes of this Act;

(i) specify State Grid Code consistent with the Grid Code specified under clause (h) of sub-section (1) of section 79;

(j) specify or enforce standards with respect to quality, continuity and reliability of service by licensees;

(k) fix the trading margin in the intra-State trading of electricity, irrespective of final destination of the electricity;

(l) to require creation of distribution system including metering and related infrastructure by the distribution licensee in a time bound manner;

(m) to specify time bound reduction of cross – subsidies in tariff;

(n) discharge such other functions as may be assigned to it under this Act.”.

Substitution of new section for section 89.

48. For section 89 of the principal Act, the following section shall be substituted, namely:—

Term of office and conditions of service of Members.

“89. The Chairperson or other Member shall hold office for a term of three years from the date he enters upon his office:

Provided that the Chairperson or other Member in the Central Commission or the State Commission shall be eligible for one more term through re-appointment in the same capacity as the Chairperson or a Member in that Commission in which he had earlier held office as such:

Provided further that no Chairperson or Member shall hold office as such after he has attained the age of sixty-five years.”.

Amendment of section 90.

49. In section 90 of the principal Act, after clause (f), the following clause shall be inserted, namely:—

“(g) on the basis of non-performance as adjudged by the Committee constituted under section 109A.”.

Amendment of section 92.

50. In section 92 of the principal Act, after sub-section (5), the following sub-section shall be inserted, namely:—

“(6) Every proceedings before the Appropriate Commission shall be decided expeditiously and with the endeavour to dispose the proceedings within one hundred and twenty days and in the event of delay, the Appropriate Commission shall record the reasons for delay beyond one hundred twenty days.”.

Amendment of section 94.

51. In section 94 of the principal Act, in sub-section (3), for the word “shall”, the word “may” shall be substituted.

Insertion of new section 109A.

52. After section 109 of the principal Act, the following section shall be inserted, namely:—

“109A. (1) The Forum of Regulators shall, from time to time, constitute an independent Committee consisting of not less than three persons of eminence to review the performance of any Appropriate Commissions and submit a report with recommendations of such Committee to the Central Government.

(2) The Committee appointed under sub-section (1) shall be entitled to take the assistance of experts and consultants to be engaged with the approval of the Forum of Regulators.

A review of performance of Appropriate Commissions.

(3) The functions and the terms of reference, including the time period for submission of the report, by the Committee shall be such as may be prescribed by the Central Government.”.

53. In section 127 of the principal Act, in sub-section (1), for the words “an appellate authority as may be prescribed”, the words, brackets and figures “the Ombudsman of the concerned area appointed in terms of sub-section (6) of section 42 and the Ombudsman shall be the appellate authority under this section” shall be substituted.

Amendment
of section
127.

54. For the marginal heading “Part XIII-Reorganisation of Board”, the marginal heading “Part XIII-Reorganisation of Board and Distribution Licensee” shall be substituted.

Amendment
of marginal
heading.

55. In section 131 of the principal Act,—

Amendment
of section
131.

(i) for the marginal heading “Vesting of property of Board in State Government”, the marginal heading “Vesting of property of Board and Distribution Licensee in the State Government” shall be substituted;

(ii) after sub-section (4), the following sub-section shall be inserted, namely:—

“(4A) (a) The State Government shall within the period specified under section 51A draw up a transfer scheme for transfer of such of the functions, the property, interest in property, rights and liabilities of the distribution licensees relating to supply of electricity to a company who shall be the incumbent supply licensee for the concerned area of supply and so far as the existing power purchase Agreements and procurement arrangements, to which the distribution licensee is the beneficiary in the intermediary company and publish such scheme as statutory transfer scheme under the Act.

(b) The distribution licensee shall cease to be charged with and shall not perform the functions and duties under this Act to the extent of the transfers made under sub clause (a) on and after the effective date of such transfer.

(c) The functions of the intermediary company shall be such as may be prescribed by the Central Government.”.

56. For section 142 of the principal Act, the following section shall be substituted, namely:—

Substitution of
new section
for section
142.

“142. In case any complaint is filed before the Appropriate Commission by any person or if that Commission is satisfied that any generating company or licensee has contravened any of the provisions of this Act or the rules or regulations made thereunder, or any direction issued by the Commission or has not complied with the renewable purchase obligation or renewable generation obligation as specified, the Appropriate Commission may after giving such generating company or licensee an opportunity of being heard in the matter, by order in writing, direct that, without prejudice to any other penalty to which the generating company or licensee may be liable under this Act, such generating company or licensee shall pay, by way of penalty, which shall not exceed one crore rupees for each contravention and in case of continuing failure with an additional penalty which may extend to one lakh rupees for every day during which the failure continues after contravention of the first such direction:

Punishment
for non-
compliance of
directions by
Appropriate
Commission.

Provided that in case of non-compliance of by a generating company generating Renewable Energy, such generating company shall be liable to a penalty not exceeding rupees ten lakhs contravention and in case of continuing failure with an additional penalty which may extend to ten thousand rupees for every day during which the failure continues after contravention of the first such direction.”.

Substitution of new section for section 146.
Punishment for non-compliance of orders or directions.

57. For section 146 of the principal Act, the following section shall be substituted, namely:—

“146. Whoever, fails to comply with any order or direction given under this Act, within such time as may be specified in the said order or direction or contravenes or attempts or abets the contravention of any of the provisions of this Act or any rules or regulations made thereunder, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one crore rupees, or with both in respect of each offence and in the case of a continuing failure, with an additional fine which may extend to one lakh rupees for every day during which the failure continues after conviction of the first such offence:

Provided that nothing contained in this section shall apply to the orders, instructions or directions issued under section 121:

Provided further that in case of non-compliance of by a generating company generating Renewable Energy, any person in charge of such generating company shall be liable for imprisonment for a term which may extend to three months or such generating company shall be liable to pay fine which may extend to ten lakh rupees, or with both in respect of each offence and in the case of a continuing failure, with an additional fine which may extend to ten thousand rupees for every day during which the failure continues after conviction of the first such offence.”.

Omission of section 149.

58. Section 149 of the principal Act shall be omitted.

Amendment of section 162.

59. In section 162 of the principal Act, after sub-section (I), the following sub-section shall be inserted, namely:—

“(IA) The Appropriate Government may prescribe—

(a) the qualification, training, powers and functions of the Chief Electrical Inspector and Electrical Inspectors;

(b) the fees and charges payable for undertaking the testing, inspection and services by the Chief Electrical Inspector and Electrical Inspectors; and

(c) the manner of inspection to be performed by the Chief Electrical Inspector and the Electrical Inspectors.

Amendment of section 166.

60. In section 166 of the principal Act,—

(i) for the marginal heading “Coordination forum”, the marginal heading “Coordination Forum, Forum of Regulations and District Committee” shall be substituted;

(ii) in sub-section (2), for the words “State Commissions”, the words “which shall perform such functions as may be prescribed by the Central Government” shall be inserted;

(iii) in sub-section (4), for the words “and distribution licensees engaged in generation, transmission and distribution of electricity” the words “distribution licensees and supply licensee engaged in generation, transmission distribution and supply of electricity” shall be substituted;

(iv) after sub-section (5), the following sub-sections shall be inserted, namely:—

“(6) The decisions of the co-ordination committee constituted under sub-section (5) shall be placed before the appropriate commission within a period not exceeding seven days.

(7) The Central Government shall constitute a Forum of Electrical Inspectors consisting of the Chief Electrical Inspectors and the Electrical Inspectors of the Central Government and the State Governments and specify its functions.”.

61. In section 176 of the principal Act, in sub-section (2)—

Amendment
of section
176.

(i) after clause (d), the following clauses shall be inserted, namely:—

(da) the option of the consumer to choose the supply of licence under sub-section (2) of section 51B;

(db) the consumption of the electricity, more than the quantity of electricity in a month, by such consumers under the proviso to sub-section (2) of section 55;”;

(ii) in clause (g), for the word, brackets and figures “sub-section (14)”, the word, brackets and figure “sub-section (12)” shall be substituted;

(iii) in clause (h), for the word, brackets and figures “sub-section (15)”, the word, brackets and figure “sub-section (4)” shall be substituted;

(iv) after clause (p), the following clause shall be inserted, namely:—

“(pa) the composition, functions and terms of reference of the Committee under sub-section (3) of section 109A;”;

(v) after clause (u), the following clause shall be inserted, namely:—

“(ua) the functions of the intermediary under clause (c) of sub-section (4A) of section 131;”.

62. In section 177 of the principal Act, in sub-section (2), in clause (a), after the words and figures “under section 34”, the words “and also measures for smart grid and ancillary services” shall be inserted.

Amendment
of section
177.

63. In section 180 of the principal Act, in sub-section (2),—

Amendment
of section
180.

(i) after clause (a), the following clause shall be inserted, namely:—

“(aa) the manner of collection and realisation of other dues along with electricity dues under section 45A;”;

(ii) after clause (m), the following clause shall be inserted, namely:—

“(ma) the powers to be exercised and the functions to be performed and the manner of inspection by the Chief Electrical Inspectors and the inspectors under sub-section (1A) of section 162;”.

64. After section 185 of the principal Act, the following section shall be inserted, namely:—

Insertion of
new section
186.

“186. (1) If any difficulty arises in giving effect to the provisions of the Electricity (Amendment) Act, 2014, the Central Government may, by order published, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty:

Power to
remove
difficulties.

Provided that no order shall be made under this section after the expiry of five years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.”.

STATEMENT OF OBJECTS AND REASONS

The Electricity Act, 2003 (the said Act) was enacted to consolidate the laws relating to generation, transmission, distribution, trading and use of electricity and generally for taking measures conducive to development of electricity industry, promoting competition therein, protecting interest of consumers and supply of electricity to all areas, rationalisation of electricity tariff, ensuring transparent policies regarding subsidies, promotion of efficient and environmentally benign policies, constitution of the Central Electricity Authority, Regulatory Commissions and establishment of Appellate Tribunal.

2. A Working Group on Power was constituted by the Planning Commission on the 4th March, 2011 for the purpose of development of power sector. The said Group, after consultation with various stakeholders, recommended for amendments in the said Act. Based on its recommendations and experience gained during the years, it was felt that there is a need to review and amend some of the provisions keeping in view the overall objectives of the said Act to bring in further competition and efficiency in the distribution sector by giving choice to the consumers, promotion of renewable energy, maintenance of grid security, rationalisation of tariff determination and strengthening of the Regulatory Commissions.

3. The amendments to the said Act have been proposed to segregate the carriage (distribution sector/network) from the content (electricity supply business) in the power sector by introducing multiple supply licensees in the content based on market principles and continuing with the carriage (distribution network) as a regulated activity. The proposed amendments also provide for recovery of revenue by licensees without any revenue gap, timely filing of tariff petitions by utilities and disposal of the same by the Appropriate Commission within a specified time period and empowering the Appropriate Commissions for initiating *suo-motu* proceedings for determination of tariff in case the utility or generating companies do not file their petitions in time.

4. Moreover, it is felt necessary to improve accountability and transparency in the working of the Appropriate Commissions without affecting their functional autonomy and to bring clarity in the provisions pertaining to the Central Electricity Authority. Further, granting deemed licensee status to companies notified by the Central Government, the provision of composite electricity bills, installation of smart meters beyond a consumption level to be prescribed by the Central Government, dedicated transmission lines and certain modifications in the composition of the Selection Committees at Central and State level for selection of the Chairperson and Members of the regulatory Commissions are some of the other amendments proposed in the said Act.

5. Accordingly, the Electricity (Amendment) Bill, 2014, *inter alia*, proposes:—

(a) to substitute section 3 of the said Act so as to make the provisions for National Renewable Energy Policy in addition to the existing National Electricity Policy and Plan;

(b) to amend section 7 of the said Act to provide for setting up of renewable energy generating station with a spinning reserve;

(c) to substitute section 14 of the said Act so as to grant separate licence for distribution and supply and for specific exemptions to promote renewable energy;

(d) to amend sub-section (8) of section 15 of the said Act so as to substitute the period of licence from twenty five years to such period as may be specified by the Appropriate Commission.

(e) to amend sections 29 and 33 of the said Act so as to enhance the penalty for non-compliance of directions by the concerned Load Despatch Centres;

(f) to substitute section 34 of the said Act so as to include the dedicated transmission lines under Grid Standards;

(g) to insert a new section 45A in the said Act so as to provide that the Appropriate Government may, in consultation with the Appropriate Commission and the concerned authorities, prescribe the manner of collection and realisation of any dues under the relevant laws for the time being in force in that State, along with the electricity dues;

(h) to insert new Parts VIA and VIB in the said Act relating to supply of electricity and other provisions relating to distribution and supply of electricity respectively;

(i) to insert a new section 59A enabling the Appropriate Government to recommend to Appropriate Commission for revocation of licence;

(j) to amend section 61 of the said Act so as to promote hydro power, reduction in regulatory assets and making the Tariff Policy mandatory;

(k) to insert a new section 109A in the said Act relating to "review of performance of Appropriate Commission" to constitute a Committee for reviewing the performance of the said Commission;

(l) to amend section 162 of the said Act so as to empower the Appropriate Government to make the rules relating to qualification, training, powers and functions of the Chief Electrical Inspectors, Electrical Inspectors and levy of fees.

6. The Notes on clauses explain in detail the various provisions contained in the Electricity (Amendment) Bill, 2014.

7. The Bill seeks to achieve the above objects.

PIYUSH GOYAL

NEW DELHI;

The 16th December, 2014.

Notes on clauses

Clause 2.— This clause seeks to amend section 2 of the principal Act to amend certain definitions and to insert the new definitions relating to "ancillary services", "area of distribution", "decentralised distributed generation", "Electricity Distribution Code", "incumbent-supply licensee", "intermediary company", "obligated entity", "renewable energy sources", "renewable energy service company", "smart grid" and "provider of last resort".

Clause 3.— This clause seeks to amend section 3 of the principal Act to provide for a separate National Renewable Energy Policy for the promotion of renewable sources of energy and for measures to promote smart grid, ancillary services and decentralised distribution generation, etc.

Clause 4.— This clause seeks to amend section 4 of the principal Act to provide for harnessing solar power and renewable sources included as a part of the National Policy in the context of the stand alone system.

Clause 5.— This clause seeks to amend section 6 of the principal Act so as to substitute the expression "area" with the expression "parts of the Country".

Clause 6.— This clause seeks to substitute section 7 of the principal Act to provide for maintenance of spinning reserve of certain capacity by the generating company and further provide that any generating company establishing a coal and lignite based thermal generating station after a date and in a manner to be notified shall be required to establish a Renewable Energy Generation capacity as prescribed by the Central Government from time to time which shall not be less than ten per cent. of the thermal power installed capacity.

Clause 7.— This clause seeks to amend section 8 of the principal Act to provide that the multipurpose hydro power with power generation shall be included as a part of hydro-electric generation. Further, it is provided that the Central Electricity Authority while giving concurrence to the hydro stations should take into account the maintenance of minimum ecological flow in the river.

Clause 8.— This clause seeks to amend section 12 of the principal Act so as to introduce the provision of a supply licensee and also to make other consequential changes due to the segregation of carriage and content.

Clause 9.— This clause seeks to substitute section 14 of the principal Act empowering the Appropriate Commission to grant licence to any person to transmit electricity as a transmission licensee or to distribute electricity as a distribution licensee.

Clause 10.— This clause seeks to amend section 15 of the principal Act so as to clarify that the period of license shall be specified by the Appropriate Commission.

Clause 11.— This clause seeks to amend section 20 of the principal Act to bring clarity in respect of provisions pertaining to expiry, revocation of licence and regarding purchase price of utility.

Clause 12.— This clause seeks to substitute section 24 of the principal Act so as to enable the Appropriate Commission to suspend the licence of the distribution licensee or a supply licensee and appoint an administrator to discharge the functions of the distribution licensee or a supply licensee in accordance with the terms and conditions of the licence.

Clause 13.— This clause seeks to amend section 29 of the principal Act to increase the quantum of penalty for violation of directions by the Regional Load Despatch Centres.

Clause 14.— This clause seeks to amend section 33 of the principal Act to increase the quantum of penalty for violation of directions by the State Load Despatch Centres.

Clause 15.— This clause seeks to substitute section 34 of the principal Act to provide for compliance of Grid Standards as specified by the Central Electricity Authority by any licensee or a generating company or any person maintaining a dedicated transmission line or any other person whose system is connected to the Grid.

Clause 16.— This clause seeks to amend section 37 of the principal Act to empower the Appropriate Government to issue directions for Grid security and safety.

Clause 17.— This clause seeks to amend section 38 of the principal Act to provide that a consumer getting electricity through open access shall be subject to payment of surcharge in addition to the transmission charges. Further, it has been clarified that the surcharge shall be as specified by the Appropriate State Commission instead of the Central Commission as it is the State Commission which deals with the cross subsidy and not the Central Commission.

Clause 18.— This clause seeks to amend section 39 of the principal Act to provide that a consumer getting electricity through open access shall be subject to payment of surcharge in addition to the transmission charges.

Clause 19.— This clause seeks to amend section 40 of the principal Act to clarify that the quantum of surcharge to be paid as specified by the Appropriate Commission of the State where the end-use premise of the consumer is located.

Clause 20.— This clause seeks to substitute section 42 of the principal Act so as to specify the duties of distribution licensee and also provide certain provisions relating to open access.

Clause 21.— This clause seeks to substitute section 43 of the principal Act so as to provide that every distribution licensee, shall, on an application by the owner or occupier of any premises in the area of distribution, give connection to such premises to enable supply of electricity, within fifteen days after receipt of the application requiring such supply.

Clause 22.— This clause seeks to amend section 44 of the principal Act so as to substitute the words "licence to give supply" with the words "licence to distribute electricity".

Clause 23.— This clause seeks to substitute section 45 of the principal Act so as to provide that the prices to be charged by a distribution licensee for the distribution of electricity by him in pursuance of section 43 shall be in accordance with such tariffs determined by the Appropriate Commission and such charges authorised by the Appropriate Commission or otherwise fixed from time-to-time as per conditions of his licence.

Clause 24.— This clause seeks to insert a new section 45A in the principal Act so as to provide that the Appropriate Government may, in consultation with the Appropriate Commission and the concerned authorities, prescribe the manner of collection and realisation of any dues under the relevant laws for the time being in force in that State, along with the electricity dues.

Clause 25.— This clause seeks to amend section 46 of the principal Act so as to substitute the words "requiring a supply of electricity", with the words "requiring connectivity to the distribution system" and the words "giving and supply", with the words "giving and maintaining the connection for enabling supply of electricity".

Clause 26.— This clause seeks to amend section 47 of the principal Act so as to provide that a distribution licensee in the area of distribution may require any person, who

requires connectivity to the distribution system in pursuance of section 51A, to give him reasonable security, for the payment to him of all monies which may become due to him in respect of the electricity distributed to such person or where any electric line or electrical plant or electric meter is to be provided for distributing electricity to such person, in respect of the provision of such line or plant or meter, and if that person fails to give such security, the distribution licensee may, if he thinks fit, refuse to distribute electricity or to provide the line or plant or meter for the period during which the failure continues.

Clause 27.— This clause seeks to amend section 48 of the principal Act so as to substitute the words "supply of electricity", with the words "distribution of electricity" and the word "supplied" with the word "distributed".

Clause 28.— This clause seeks to substitute section 49 of the principal Act so as to provide that with effect from the commencement of the Electricity (Amendment) Act, 2014, all consumers having a connected load of 1 Megawatt and above may enter into an agreement with any person for supply or purchase of electricity on such terms and conditions (including tariff) as may be agreed upon by them.

Clause 29.— This clause seeks to substitute section 50 of the principal Act so as to provide that the State Commission shall specify an electricity distribution code to provide for recovery of electricity charges, intervals for billing of electricity charges, disconnection of connectivity of electricity for non-payment thereof, restoration of supply of electricity, measures for preventing tampering, distress or damage to electrical plant or electrical line or meter, entry of distribution licensee or any person acting on his behalf for disconnecting connection and removing the meter, entry for replacing, altering or maintaining electric lines or electrical plants or meter and such other matters.

Clause 30.— This clause seeks to insert a new Part VIA in the principal Act containing sections 51A to 51G to deal with the supply of electricity as distinct from the distribution of electricity.

Clause 31.— This clause seeks to insert a new Part VIB in the principal Act containing section 51H to deal with the common provisions applicable to both the distribution and supply function.

Clause 32.— This clause seeks to amend section 54 of the principal Act whereby the metro railway under the Metro Railways (Operation maintenance) Act, 2002 has been added in addition to Railways in view of the necessity to treat both alike.

Clause 33.— This clause seeks to amend section 55 of the principal Act whereby additions have been made for proper energy accounting at various stages through an appropriate meter.

Clause 34.— This clause seeks to amend section 56 of the principal Act and a provision has been made in regard to pre-paid meters, wherein the concept of notice for disconnection shall not be required.

Clause 35.— This clause seeks to insert a new section 59A in the principal Act to enable the Appropriate Government to recommend for revocation of licence due to non-compliance of standard of performance by the licensee.

Clause 36.— This clause seeks to amend section 61 of the principal Act whereby certain additional guidelines have been added in regard to tariff determination. It has been specifically provided that the provisions of the Tariff Policy shall be followed by the Appropriate Commission in the tariff determination.

Clause 37.— This clause seeks to substitute section 62 of the principal Act so as to provide the determination of tariff by the Appropriate Commission for the reasons mentioned in sub-section (1) of the said section. It is further provided that the tariff determined by the Appropriate Commission for a licensee shall provide for recovery of all prudent costs of the licensee approved by the Appropriate Commission in the monthly bills during the tariff period through an appropriate price adjustment formula including wherever applicable the fuel, power purchase and procurement price surcharge formula as may be specified in the Tariff Policy. It is also provided that the Appropriate Commission may require a licensee or a generating company to furnish separate details, as may be specified in respect of generation, transmission, distribution and supply for determination of tariff.

Clause 38.— This clause seeks to amend section 64 of the principal Act so as to provide the consequences of tariff petition not being filed in time by the Utilities and enables the Appropriate Commission to proceed ahead in view of the importance of timely tariff revision for viability of the power sector.

Clause 39.— This clause seeks to substitute section 66 of the principal Act so as to provide that the Appropriate Commission shall endeavour to promote the development of a market (including trading and forward and futures contract) in power and a market for encouraging energy efficiency in power in such manner as may be specified and shall be guided by the National Electricity Policy, referred to in section 3, and other directions issued by the Central Government in the public interest from time to time.

Clause 40.— This clause seeks to amend section 67 of the principal Act so as to make certain consequential amendments on account of the segregation of distribution and supply functions.

Clause 41.— This clause seeks to amend section 68 of the principal Act so as to make certain amendments in the said section which are consequential in nature.

Clause 42.— This clause seeks to insert a new section 69A in the principal Act for taking prior consent of the existing licensee while carrying on any activity in the area of licensee. This is to protect the interest of the existing licensee and to avoid interruptions in the power system.

Clause 43.— This clause seeks to amend section 70 of the principal Act so as to bring clarity in the provisions relating the Central Electricity Authority.

Clause 44.— This clause seeks to amend section 78 of the principal Act so as to make certain amendments in the provisions of the Selection Committee to select Members of the Central Commission.

Clause 45.— This clause seeks to amend section 79 of the principal Act so as to include a new clause in sub-section (1) of the said section relating to functions of the Central Commission.

Clause 46.— This clause seeks to amend section 85 of the principal Act so as to make certain amendments in the provisions of the Selection Committee to select Members of the State Commission.

Clause 47.— This clause seeks to amend section 86 of the principal Act so as to provide additional functions being discharged by the State Commission.

Clause 48.— This clause seeks to amend section 89 of the principal Act so as to provide the duration of the period of Chairman and Members of the State and Central Commission to be reduced from five years to three years and with a provision of re-appointment for one more term of three years.

Clause 49.— This clause seeks to amend section 90 of the principal Act so as to provide the conditions under which a Member of the Commission can be removed on the basis of non-performance as adjudged by a Committee to be constituted by the Forum of Regulators.

Clause 50.— This clause seeks to amend section 92 of the principal Act to provide that the Appropriate Commission shall decide the matters expeditiously and in case of delay, the reasons shall be recorded by the Commission.

Clause 51.— This clause seeks to amend section 94 of the principal Act to provide that the Appropriate Commission shall appoint a person to represent the interest of the consumers.

Clause 52.— This clause seeks to insert a new section 109A in regard to the appointment of a Committee by Forum for Regulators to review the performance of the Appropriate Commission.

Clause 53.— This clause seeks to amend section 127 of the principal Act to provide that the Ombudsman to be appointed under sub-section (6) of section 42 shall be the Appellate Authority.

Clause 54.— This clause seeks to amend the marginal heading of "Part XIII — Re-organisation of Board", as "Part XIII — Re-organisation of Board and Distribution Licensee" where the amendment is consequential in nature.

Clause 55.— This clause seeks to amend section 131 of the principal Act to provide for re-organisations provisions to implement the segregation of the distribution functions and supply functions through a statutory scheme.

Clause 56.— This clause seeks to substitute section 142 of the principal Act to provide punishment for non-compliance of directions by the Appropriate Commission. The said section provide that for non-compliance of directions, the generating company or licensee shall pay, by way of penalty, which shall not exceed one crore rupees for each contravention and in case of continuing failure with an additional penalty which may extend to one lakh rupees for every day during which the failure continues.

Clause 57.— This clause seeks to amend section 146 of the principal Act to provide punishment for non-compliance of orders or directions given under the Act with an imprisonment for a term which may extend to three months or with fine which may extend to one crore rupees, or with both in respect of each offence and in case of continuing failure with an additional penalty which may extend to one lakh rupees for every day during which the failure continues.

Clause 58.— This clause provides for omission of section 149 of the principal Act as substantive provisions of the Act cover matters relating to offences by the company.

Clause 59.— This clause seeks to amend section 162 of the principal Act so as to empower the Appropriate Government to make the rules relating to qualification, training, powers and functions of the Chief Electrical Inspectors, Electrical Inspectors and levy of fees.

Clause 60.— This clause seeks to amend section 166 of the principal Act so as to make certain amendments in the said section which are consequential in nature.

Clause 61.— This clause seeks to amend section 176 of the principal Act so as to empower the Central Government to frame rules on certain matters which have been inserted by the proposed amendments.

Clause 62.— This clause seeks to amend section 177 of the principal Act so as to empower the Central Electricity Authority to frame regulations on certain matters which have been inserted by the proposed amendments.

Clause 63.— This clause seeks to amend section 180 of the principal Act to empower the State Government to frame rules on certain matters which have been inserted by the proposed amendments.

Clause 64.— This clause seeks to insert a new section 186 to empower the Central Government to issue orders for removal of difficulty while during implementation of the Electricity (Amendment) Act, 2014.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 61 of the Bill seeks to amend section 176 of the Electricity Act, 2003 which empowers the Central Government to make rules. The matters on which rules may be made *inter alia*, relate to (a) the option of the consumer to choose the supply of licensee under sub-section (2) of section 51B; (b) the consumption of the electricity more than the quantity of electricity in a month, by such consumers under the proviso to sub-section (2) of section 55; (c) the composition, functions and terms of reference of the Committee under sub-section (3) of section 109A, and (d) the functions of the intermediary company under clause (c) of sub-section (4A) of section 131.

2. Clause 62 of the Bill seeks to amend section 177 of the Electricity Act which empowers the Central Electricity Authority to make regulations and for this purpose, it is proposed to amend clause (a) of sub-section (2) of said section which is consequential in nature.

3. Clause 63 of the Bill seeks to amend section 180 of the principal Act, which empowers the State Government to make rules. The matters on which rules may be made, *inter alia*, relate to (a) the manner of collection and realisation of other dues along with electricity dues under section 45A and; (b) the powers to be exercised and the functions to be performed and the manner of inspection by the Chief Electrical Inspectors and the inspectors under sub-section (1A) of section 162.

4. The matters in respect of which the said rules and regulations may be made are matters of procedure and administrative detail, and as such, it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

BILL NO. 192 OF 2014

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (One Hundred and Twenty-second Amendment) Act, 2014.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the commencement of that provision.

2. After article 246 of the Constitution, the following article shall be inserted, namely:—

Insertion of
new article
246A.

"246A. (1) Notwithstanding anything contained in articles 246 and 254, Parliament, and, subject to clause (2), the Legislature of every State, have power to make laws with respect to goods and services tax imposed by the Union or by such State.

Special
provision
with respect
to goods and
services tax.

(2) Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

Explanation.—The provisions of this article, shall, in respect of goods and services tax referred to in clause (5) of article 279A, take effect from the date recommended by the Goods and Services Tax Council.”.

Amendment
of article 248.

3. In article 248 of the Constitution, in clause (1), for the word "Parliament", the words, figures and letter "Subject to article 246A, Parliament" shall be substituted.

Amendment
of article 249.

4. In article 249 of the Constitution, in clause (1), after the words "with respect to", the words, figures and letter "goods and services tax provided under article 246A or" shall be inserted.

Amendment
of article 250.

5. In article 250 of the Constitution, in clause (1), after the words "with respect to", the words, figures and letter "goods and services tax provided under article 246A or" shall be inserted.

Amendment
of article 268.

6. In article 268 of the Constitution, in clause (1), the words "and such duties of excise on medicinal and toilet preparations" shall be omitted.

Omission of
article 268A.

7. Article 268A of the Constitution, as inserted by section 2 of the Constitution (Eighty-eighth Amendment) Act, 2003 shall be omitted.

Amendment
of article 269.

8. In article 269 of the Constitution, in clause (1), after the words "consignment of goods", the words, figures and letter "except as provided in article 269A" shall be inserted.

Insertion of
new article
269A.

9. After article 269 of the Constitution, the following article shall be inserted, namely:—

Levy and
collection of
goods and
services tax in
course of inter-
State trade or
commerce.

“269A. (1) Goods and services tax on supplies in the course of inter-State trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the Goods and Services Tax Council.

Explanation.—For the purposes of this clause, supply of goods, or of services, or both in the course of import into the territory of India shall be deemed to be supply of goods, or of services, or both in the course of inter-State trade or commerce.

(2) Parliament may, by law, formulate the principles for determining the place of supply, and when a supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.”.

Amendment
of article 270.

10. In article 270 of the Constitution,—

(i) in clause (1), for the words, figures and letter "articles 268, 268A and article 269", the words, figures and letter "articles 268, 269 and article 269A" shall be substituted;

(ii) after clause (1), the following clause shall be inserted, namely:—

“(1A) The goods and services tax levied and collected by the Government of India, except the tax apportioned with the States under clause (1) of article 269A, shall also be distributed between the Union and the States in the manner provided in clause (2).”.

Amendment
of article 271.

11. In article 271 of the Constitution, after the words “in those articles”, the words, figures and letter “except the goods and services tax under article 246A,” shall be inserted.

12. After article 279 of the Constitution, the following article shall be inserted, namely:—

Insertion of
new article
279A.

“279A. (1) The President shall, within sixty days from the date of commencement of the Constitution (One Hundred and Twenty-second Amendment) Act, 2014, by order, constitute a Council to be called the Goods and Services Tax Council.

Goods and
Services Tax
Council.

(2) The Goods and Services Tax Council shall consist of the following members, namely:—

- (a) the Union Finance Minister.....Chairperson;
- (b) the Union Minister of State in charge of Revenue or Finance..... Member;
- (c) the Minister in charge of Finance or Taxation or any other Minister nominated by each State Government.....Members.

(3) The Members of the Goods and Services Tax Council referred to in sub-clause (c) of clause (2) shall, as soon as may be, choose one amongst themselves to be the Vice-Chairperson of the Council for such period as they may decide.

(4) The Goods and Services Tax Council shall make recommendations to the Union and the States on—

- (a) the taxes, cesses and surcharges levied by the Union, the States and the local bodies which may be subsumed in the goods and services tax;
- (b) the goods and services that may be subjected to, or exempted from the goods and services tax;
- (c) model Goods and Services Tax Laws, principles of levy, apportionment of Integrated Goods and Services Tax and the principles that govern the place of supply;
- (d) the threshold limit of turnover below which goods and services may be exempted from goods and services tax;
- (e) the rates including floor rates with bands of goods and services tax;
- (f) any special rate or rates for a specified period, to raise additional resources during any natural calamity or disaster;
- (g) special provision with respect to the States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand; and
- (h) any other matter relating to the goods and services tax, as the Council may decide.

(5) The Goods and Services Tax Council shall recommend the date on which the goods and services tax be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel.

(6) While discharging the functions conferred by this article, the Goods and Services Tax Council shall be guided by the need for a harmonised structure of goods and services tax and for the development of a harmonised national market for goods and services.

(7) One half of the total number of Members of the Goods and Services Tax Council shall constitute the quorum at its meetings.

(8) The Goods and Services Tax Council shall determine the procedure in the performance of its functions.

(9) Every decision of the Goods and Services Tax Council shall be taken at a meeting, by a majority of not less than three-fourths of the weighted votes of the members present and voting, in accordance with the following principles, namely:—

(a) the vote of the Central Government shall have a weightage of one-third of the total votes cast, and

(b) the votes of all the State Governments taken together shall have a weightage of two-thirds of the total votes cast,

in that meeting.

(10) No act or proceedings of the Goods and Services Tax Council shall be invalid merely by reason of—

(a) any vacancy in, or any defect in, the constitution of the Council; or

(b) any defect in the appointment of a person as a Member of the Council; or

(c) any procedural irregularity of the Council not affecting the merits of the case.

(11) The Goods and Services Tax Council may decide about the modalities to resolve disputes arising out of its recommendations.”.

Amendment
of article 286.

13. In article 286 of the Constitution,—

(i) in clause (1),—

(A) for the words "the sale or purchase of goods where such sale or purchase takes place", the words "the supply of goods or of services or both, where such supply takes place" shall be substituted;

(B) in sub-clause (b), for the word “goods”, at both the places where it occurs the words “goods or services or both” shall be substituted;

(ii) in clause (2), for the words "sale or purchase of goods takes place", the words "supply of goods or of services or both" shall be substituted;

(iii) clause (3) shall be omitted.

Amendment
of article 366.

14. In article 366 of the Constitution,—

(i) after clause (12), the following clause shall be inserted, namely:—

“(12A) “goods and services tax” means any tax on supply of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption;”;

(ii) after clause (26), the following clauses shall be inserted, namely:—

“(26A) “Services” means anything other than goods;

(26B) “State” with reference to articles 246A, 268, 269, 269A and article 279A includes a Union territory with Legislature;”.

Amendment
of article 368.

15. In article 368 of the Constitution, in clause (2), in the proviso, in clause (a), for the words and figures “article 162 or article 241”, the words, figures and letter “article 162, article 241 or article 279A” shall be substituted.

Amendment
of Sixth
Schedule.

16. In the Sixth Schedule to the Constitution, in paragraph 8, in sub-paragraph (3),—

(i) in clause (c), the word "and" occurring at the end shall be omitted;

(ii) in clause (d), the word "and" shall be inserted at the end;

(iii) after clause (d), the following clause shall be inserted, namely:—

“(e) taxes on entertainment and amusements.”.

17. In the Seventh Schedule to the Constitution,—Amendment
of Seventh
Schedule.**(a) in List I — Union List,—****(i) for entry 84, the following entry shall be substituted, namely:—**

"84. Duties of excise on the following goods manufactured or produced in India, namely:—

- (a) petroleum crude;
- (b) high speed diesel;
- (c) motor spirit (commonly known as petrol);
- (d) natural gas;
- (e) aviation turbine fuel; and
- (f) tobacco and tobacco products.";

(ii) entries 92 and 92C shall be omitted;**(b) in List II — State List,—****(i) entry 52 shall be omitted;****(ii) for entry 54, the following entry shall be substituted, namely:—**

"54. Taxes on the sale of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas, aviation turbine fuel and alcoholic liquor for human consumption, but not including sale in the course of inter-State trade or commerce or sale in the course of international trade or commerce of such goods.";

(iii) entry 55 shall be omitted;**(iv) for entry 62, the following entry shall be substituted, namely:—**

"62. Taxes on entertainments and amusements to the extent levied and collected by a Panchayat or a Municipality or a Regional Council or a District Council.".

18. (1) An additional tax on supply of goods, not exceeding one per cent., in the course of inter-State trade or commerce shall, notwithstanding anything contained in clause (1) of article 269A, be levied and collected by the Government of India for a period of two years or such other period as the Goods and Services Tax Council may recommend, and such tax shall be assigned to the States in the manner provided in clause (2).

Arrangement
for assignment
of additional
tax on supply
of goods to
States for two
years or such
other period
recommended
by Council.

(2) The net proceeds of additional tax on supply of goods in any financial year, except the proceeds attributable to the Union territories, shall not form part of the Consolidated Fund of India and be deemed to have been assigned to the States from where the supply originates.

(3) The Government of India may, where it considers necessary in the public interest, exempt such goods from the levy of tax under clause (1).

(4) Parliament may, by law, formulate the principles for determining the place of origin from where supply of goods take place in the course of inter-State trade or commerce.

19. Parliament may, by law, on the recommendation of the Goods and Services Tax Council, provide for compensation to the States for loss of revenue arising on account of implementation of the goods and services tax for such period which may extend to five years.

Compensation
to States for
loss of
revenue on
account of
introduction
of goods and
services tax.

Transitional provisions.

20. Notwithstanding anything in this Act, any provision of any law relating to tax on goods or services or on both in force in any State immediately before the commencement of this Act, which is inconsistent with the provisions of the Constitution as amended by this Act shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until expiration of one year from such commencement, whichever is earlier.

Power of President to remove difficulties.

21. (1) If any difficulty arises in giving effect to the provisions of the Constitution as amended by this Act (including any difficulty in relation to the transition from the provisions of the Constitution as they stood immediately before the date of assent of the President to this Act to the provisions of the Constitution as amended by this Act), the President may, by order, make such provisions, including any adaptation or modification of any provision of the Constitution as amended by this Act or law, as appear to the President to be necessary or expedient for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiry of three years from the date of such assent.

(2) Every order made under sub-section (1) shall, as soon as may be after it is made, be laid before each House of Parliament.

STATEMENT OF OBJECTS AND REASONS

The Constitution is proposed to be amended to introduce the goods and services tax for conferring concurrent taxing powers on the Union as well as the States including Union territory with Legislature to make laws for levying goods and services tax on every transaction of supply of goods or services or both. The goods and services tax shall replace a number of indirect taxes being levied by the Union and the State Governments and is intended to remove cascading effect of taxes and provide for a common national market for goods and services. The proposed Central and State goods and services tax will be levied on all transactions involving supply of goods and services, except those which are kept out of the purview of the goods and services tax.

2. The proposed Bill, which seeks further to amend the Constitution, *inter alia*, provides for—

(a) subsuming of various Central indirect taxes and levies such as Central Excise Duty, Additional Excise Duties, Excise Duty levied under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, Service Tax, Additional Customs Duty commonly known as Countervailing Duty, Special Additional Duty of Customs, and Central Surcharges and Cesses so far as they relate to the supply of goods and services;

(b) subsuming of State Value Added Tax/Sales Tax, Entertainment Tax (other than the tax levied by the local bodies), Central Sales Tax (levied by the Centre and collected by the States), Octroi and Entry tax, Purchase Tax, Luxury tax, Taxes on lottery, betting and gambling; and State cesses and surcharges in so far as they relate to supply of goods and services;

(c) dispensing with the concept of 'declared goods of special importance' under the Constitution;

(d) levy of Integrated Goods and Services Tax on inter-State transactions of goods and services;

(e) levy of an additional tax on supply of goods, not exceeding one per cent. in the course of inter-State trade or commerce to be collected by the Government of India for a period of two years, and assigned to the States from where the supply originates;

(f) conferring concurrent power upon Parliament and the State Legislatures to make laws governing goods and services tax;

(g) coverage of all goods and services, except alcoholic liquor for human consumption, for the levy of goods and services tax. In case of petroleum and petroleum products, it has been provided that these goods shall not be subject to the levy of Goods and Services Tax till a date notified on the recommendation of the Goods and Services Tax Council.

(h) compensation to the States for loss of revenue arising on account of implementation of the Goods and Services Tax for a period which may extend to five years;

(i) creation of Goods and Services Tax Council to examine issues relating to goods and services tax and make recommendations to the Union and the States on parameters like rates, exemption list and threshold limits. The Council shall function under the Chairmanship of the Union Finance Minister and will have the Union Minister of State in charge of Revenue or Finance as member, along with the Minister in-charge of Finance or Taxation or any other Minister nominated by each State Government. It is further provided that every decision of the Council shall be taken by a majority of

not less than three-fourths of the weighted votes of the members present and voting in accordance with the following principles:—

(A) the vote of the Central Government shall have a weightage of one-third of the total votes cast, and

(B) the votes of all the State Governments taken together shall have a weightage of two-thirds of the total votes cast in that meeting.

Illustration:

In terms of clause (9) of the proposed article 279A, the "weighted votes of the members present and voting" in favour of a proposal in the Goods and Services Tax Council shall be determined as under:—

Where,

$$WT = WC + WS = \left(\frac{WST}{SP} \right) \times SF$$

Wherein—

WT = Total weighted votes of all members in favour of a proposal.

WC = Weighted vote of the Union = $\frac{1}{3}$ i.e., 33.33% if the Union is in favour of the proposal and be taken as "0" if, Union is not in favour of a proposal.

WS = Weighted votes of the States in favour of a proposal.

SP = Number of States present and voting.

WST = Weighted votes of all States present and voting i.e., $\frac{2}{3}$ i.e., 66.67%

SF = Number of States voting in favour of a proposal.

(j) Clause 20 of the proposed Bill makes transitional provisions to take care of any inconsistency which may arise with respect to any law relating to tax on goods or services or on both in force in any State on the commencement of the provisions of the Constitution as amended by this Act within a period of one year.

3. The Bill seeks to achieve the above objects.

NEW DELHI;
The 18th December, 2014.

ARUN JAITLEY

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE
CONSTITUTION OF INDIA

[Copy of letter No. S-31011/07/2014-SO(ST), dated the 18th December, 2014 from Shri Arun Jaitley, Minister of Finance to the Secretary-General, Lok Sabha.]

The President, having been informed of the subject matter of the proposed Bill, recommends under clauses (1) and (3) of article 117, read with clause (1) of article 274, of the Constitution of India, the introduction of the Constitution (One Hundred and Twenty-second Amendment) Bill, 2014 in Lok Sabha and also the consideration of the Bill.

FINANCIAL MEMORANDUM

Clause 12 of the Bill seeks to insert a new article 279A in the Constitution relating to Constitution of Goods and Services Tax Council. The Council shall function under the Chairmanship of the Union Finance Minister and will have the Union Minister of State in-charge of Revenue or Finance as member, along with the Minister in-charge of Finance or Taxation or any other Minister nominated by each State Government.

2. The creation of Goods and Services Tax Council will involve expenditure on office expenses, salaries and allowances of the officers and staff. The objective that the introduction of goods and services tax will make the Indian trade and industry more competitive, domestically as well as internationally and contribute significantly to the growth of the economy, such additional expenditure on the Council will not be significant.

3. At this stage, it will be difficult to make an estimate of the expenditure, both recurring and non-recurring on account of the constitution of the Council.

4. Further, it is provided for compensation to the States for loss of revenue arising on account of implementation of the Goods and Services Tax for such period which may extend to five years. The exact compensation can be worked out only when the provisions of the Bill are implemented.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill seeks to insert a new article 279A relating to the constitution of a Council to be called the Goods and Services Tax Council. Clause (1) of the proposed new article 279A provides that the President, shall within sixty days from the date of the commencement of the Constitution (One Hundred and Twenty-second Amendment) Act, 2014, by order, constitute a Council to be called the Goods and Services Tax Council. Clause (8) of the said article provides that the Council shall determine the procedure in the performance of its functions.

2. The procedures, as may be laid down by the Goods and Services Tax Council in the performance of its functions, are matters of procedure and details. The delegation of legislative power is, therefore, of a normal character.

ANOOP MISHRA,
Secretary-General.